

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN ARMENDARIZ, JR.,

Defendant.

)
)
)
)
)
)
)
)
)
)

CASE NO. 8:04CR328

ORDER

This matter is before the Court on the Defendant's motion to produce certain items of property at the scheduled evidentiary hearing (Filing No. 187). The motion is unopposed.

The Defendant requests the return of property under Federal Rule of Criminal Procedure 41(e) & (g). The motion, the government's response, and the Defendant's reply present the Court with factual issues including, for example, whether items of property are contraband and have monetary value. Rule 41(g) provides that "[t]he court must receive evidence on any factual issue necessary to decide the motion." Because the motion to produce has not been opposed; the items appear to be documents or small items; and the production of these items would aid the Court in ruling on the motion to return property, the motion to produce will be granted.

The Defendant is cautioned that counsel has been appointed. (Filing No. 188.) All further communication with the Court must be through counsel.

IT IS ORDERED:

1. The Defendant's motion to produce (Filing No. 187) is granted; and

2. The government must produce items 6, 8, 9, 10, 19, 23, 24 and 28 (the numbers refer to the items so numbered in Filing No. 182) at the previously scheduled evidentiary hearing on June 2, 2008.

DATED this 19th day of May, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge